

**United States District Court**

EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

**STEVE PERRY *et al.*,**

**Plaintiffs,**

**v.**

**PEOPLE OF THE STATE OF TEXAS  
*et al.*,**

**Defendants.**

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**Civil No.: 4:21-cv-838-ALM-KPJ**

**MEMORANDUM ADOPTING REPORT AND  
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On August 9, 2022, the Magistrate Judge entered proposed findings of fact and a recommendation (the “Report”) (Dkt. #59) that certain claims brought by Plaintiffs Steve Perry, Jose Salas, and Jorge Vasquez’s (together, “Plaintiffs”)<sup>1</sup> be dismissed for lack of subject-matter jurisdiction and that Plaintiffs be granted leave to amend their complaint as to all other claims asserted.

Having received the Report of the United States Magistrate Judge, and no timely objections being filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge’s report as the findings and conclusions of the Court.

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<sup>1</sup> The Texas Gamefowl Breeders Association (the “TGBA”), proceeding *pro se*, has also brought claims in this matter. In an Order entered August 3, 2022, the Magistrate Judge informed the TGBA that it may not proceed *pro se* in this case and ordered the TGBA to retain counsel and have such counsel file an appearance in this matter within fourteen (14) days from the date Plaintiffs received service of the Order. *See* Dkt. 57. Plaintiffs were further advised that “[i]f dismissal is satisfactory to the TGBA, no further action is necessary.” *See id.* Plaintiff Jorge Vasquez received service of the Order on August 9, 2022. To date, counsel has not appeared on behalf of the TBGA.

Accordingly, **IT IS ORDERED** that Plaintiffs claims asserted under Title 18, except for Plaintiffs' RICO claims, and Plaintiffs' claims asserted under 28 U.S.C. § 1746 and 31 U.S.C. § 3729 are **DISMISSED** for lack of subject-matter jurisdiction.

**IT IS FURTHER ORDERED** that the Motions to Dismiss (Dkts. #32, 36, 39, 52) filed by Group Nine Media, Inc., NBC Universal Media, LLC, Steve Burke, Jeff Shell, the SPCA of Texas, Arturo Munoz, Univision Communications Inc., and Wade Davis are **DENIED WITHOUT PREJUDICE** as to all other claims asserted by Plaintiffs.

**IT IS FURTHER ORDERED** that Plaintiffs may file an amended complaint within fourteen (14) days after receiving service of this Memorandum. The amended complaint, if any, must comply with the pleading requirements set forth in the Report (Dkt. 59).

**IT IS FURTHER ORDERED** that, within fourteen (14) days after filing their amended complaint, if any, Plaintiffs shall cure any defects in service as to Group Nine Media, Inc., the SPCA of Texas, and Arturo Munoz and file returns of service as to each of the foregoing Defendants. If Plaintiffs fail to do so, Group Nine Media, Inc., the SPCA of Texas, and Arturo Munoz may refile Rule 12(b)(5) motions as to Plaintiffs' amended complaint within twenty-one (21) days after the amended complaint is filed.

**SIGNED this 26th day of September, 2022.**

  
AMOS L. MAZZANT  
UNITED STATES DISTRICT JUDGE